E-FILED | 10/21/2026 11:03 AM
CC-20-2026-C-1281
Kanawha County Circuit Clerk
Cathy S. Gatson

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

WILDA LYNCH, and
PETER LYNCH, her Husband,

Plaintiffs,

v. **Civil Action No.: _____**

DAVIS MEMORIAL HOSPITAL,
d/b/a DAVIS MEDICAL CENTER

Defendant.

COMPLAINT

NOW COME the Plaintiffs, Wilda Lynch and Peter Lynch, her husband, by counsel, James C. Wright and R. Dean Hartley of the Hartley Law Group, PLLC, and for their Complaint against the Defendant, state as follows:

PARTIES AND JURISDICTION

1. Plaintiffs Wilda Lynch ("Mrs. Lynch") and Peter Lynch are adult individuals and are citizens and residents of French Creek, Upshur County, West Virginia.

2. Defendant Davis Memorial Hospital ("DMH") is a West Virginia corporation with its principal office address located at 812 Gorman Avenue, Elkins, West Virginia 26241.

3. Among other things, Defendant Davis Memorial Hospital further does business in West Virginia under one of its registered trade names, Davis Medical Center, and maintains an office address located at 11 North Locust Street, Buckhannon, West Virginia 26201.

4. Defendant Davis Memorial Hospital d/b/a Davis Medical Center provides medical care and services to its patients and conducts and transacts business in Upshur County, West Virginia.

5. At all times relevant to this Complaint, Kessa D. Thorpe, PA-C ("Kessa Thorpe, PA-C" or "Ms. Thorpe") was employed by Davis Memorial Hospital as a Physician Assistant-Certified and provided medical care and treatment to Plaintiff Wilda Lynch on March 4, 2025.

6. As the employer of these agents, servants, and/or employees, including registered nurses, nurse aides, assistants, and other health care providers, Defendant DMH is vicariously liable for its employees' negligent acts and omissions as is alleged *infra*.

7. As described more fully below, DMH, its agents, servants and/or employees, individually and collectively, engaged in negligent conduct that resulted in severe and permanent injuries to Mrs. Lynch.

8. As required by West Virginia Code § 55-7B-6, the Plaintiff provided Defendants with a notice of this claim together with a screening certificate of merit more than thirty (30) days prior to the filing of this action.

9. This Court has subject matter jurisdiction over this civil action pursuant to W. Va. Code § 56-1-1. Venue is proper in the Circuit Court of Kanawha County, West Virginia, because the President of Defendant DMH, Jeff H. Goode, resides in Kanawha County, West Virginia. Further, to the extent that West Virginia recognizes the venue-giving defendant principle, venue being proper as to one defendant renders venue proper as to all defendants in this action.

OPERATIVE FACTS

10. Plaintiff incorporates by reference all preceding allegations contained above as if fully stated herein.

11. On March 4, 2025, Mrs. Lynch presented to Buckhannon Medical Care with hearing loss in her left ear. Kessa Thorpe, PA-C evaluated Mrs. Lynch. During an otoscopic examination, Ms. Thorpe determined that the left tympanic membrane was dull with a moderate

effusion. She diagnosed Mrs. Lynch with serous otitis media of the left ear, and prescribed Zithromycin and Flonase. No further diagnostic testing was performed during that visit.

12. Ms. Thorpe instructed Mrs. Lynch to contact her if the Zithromycin and Flonase did not improve her hearing loss. After completing both treatments without improvement, Mrs. Lynch contacted Ms. Thorpe's office. On March 23, 2025, the office referred her to an ENT for an appointment scheduled on April 23, 2025.

13. Mrs. Lynch continued to experience hearing loss and underwent audiometric testing performed by Luann Hendershot on April 23, 2025. The testing revealed moderately severe, sensorineural hearing loss in her left ear with very poor word recognition (twenty-six percent (26%) correct in quiet).

14. The same day, Mrs. Lynch was seen by Dr. Daniel Merenda at WVU Medicine UHC. Dr. Merenda evaluated Mrs. Lynch for hearing loss and tinnitus based on the results of the audiometric testing. He diagnosed Mrs. Lynch with sudden-onset sensorineural hearing loss (hereinafter sometimes referred to as "SNHL"). Dr. Merenda noted that the best time for treatment for SNHL is within 72 hours. At this time, Mrs. Lynch had been experiencing hearing loss for approximately seven (7) weeks. He ordered an MRI to further evaluate for possible retro-cochlear pathology.

15. On May 29, 2025, Mrs. Lynch underwent an MRI at the West Virginia University St. Joseph's Hospital Imaging Center.

16. On June 5, 2025, Dr. Merenda reviewed the MRI results with Mrs. Lynch. The MRI revealed no mass, abnormal enhancement, internal auditory canal asymmetry, or other retro-cochlear abnormality that would explain her symptoms. Dr. Merenda discussed treatment options

with Plaintiffs, including BiCROS hearing aids and cochlear implants, and referred Mrs. Lynch to Dr. Brian Kellermeyer for further evaluation.

17. On August 18, 2025, Dr. Kellermeyer evaluated Mrs. Lynch and performed another audiogram, which confirmed sensorineural hearing loss. He determined that she was not a candidate for cochlear implants and discussed BiCROS and traditional hearing aids as alternative treatment options.

18. Mrs. Lynch continues to suffer hearing loss in her left ear and, upon information and belief, this hearing loss is permanent.

COUNT I
DAVIS MEMORIAL HOSPITAL'S NEGLIGENCE
(Employer of Kessa Thorpe, PA-C, PA-C)

19. Plaintiff incorporates by reference all preceding allegations contained above as if fully stated herein.

20. Kessa Thorpe, PA-C, PA-C individually and while acting in the scope of her employment and/or pursuant to an agency relationship with Defendant Davis Memorial Hospital, was negligent in the care and treatment she rendered or failed to render to Mrs. Lynch.

21. The standard of care required Ms. Thorpe to exercise the degree of care and skill that a reasonable, prudent primary care provider would exercise under the same or similar circumstances in the evaluation and treatment of Mrs. Lynch.

22. The standard of care required Ms. Thorpe to conduct a complete assessment of Mrs. Lynch's sudden-onset complaints of hearing loss.

23. The standard of care required Ms. Thorpe to distinguish conductive hearing loss from sensorineural hearing loss and perform additional office tests.

24. The standard of care required Ms. Thorpe to obtain an appropriate diagnosis that was supported by adequate evidence.

25. Ms. Thorpe breached the applicable standard of care by failing to conduct a complete assessment of Mrs. Lynch's sudden-onset complaints of hearing loss.

26. Ms. Thorpe breached the applicable standard of care by failing to distinguish conductive hearing loss from sensorineural hearing loss with the performance of Weber and Rinne Test.

27. Ms. Thorpe breached the applicable standard of care by failing to obtain an appropriate diagnosis that was supported by adequate evidence.

28. Ms. Thorpe's negligent care, including the alleged failure to conduct a complete assessment of and evaluate Mrs. Lynch's sudden hearing loss, deviated from the applicable standard of care, posed a risk of serious harm, and constituted a substantial factor in bringing about Mrs. Lynch's permanent hearing loss in her left ear.

29. As a direct and proximate result of Kessa Thorpe, PA-C's acts and/or failures to act and negligence as hereinabove alleged while acting within the scope of her employment and/or agency relationship with Defendant Davis Memorial Hospital, Mrs. Lynch missed the critical treatment window for sudden sensorineural hearing loss, which substantially contributed to her permanent hearing loss.

30. As a direct and proximate result of the aforesaid carelessness, recklessness, negligence, and breaches in the medical standard of care by Kessa Thorpe, PA-C, while acting within the scope of her employment and/or agency relationship with the Davis Memorial Hospital, Mrs. Lynch sustained and continues to experience severe physical injuries, severe pain and suffering, and mental anguish.

31. As a direct and proximate result of Kessa Thorpe, PA-C's acts and/or failures to act and negligence as herein and above alleged while acting within the scope of her employment and/or agency relationship with the Davis Memorial Hospital, Mrs. Lynch incurred substantial medical expenses for her care and treatment.

32. Had Ms. Thorpe complied with the standard of care, Mrs. Lynch, to a reasonable degree of medical probability, would likely have experienced an improved recovery and regained hearing.

33. Had Ms. Thorpe met the standard of care, there is a greater than twenty-five percent (25%) probability that Mrs. Lynch would have had an improved recovery and preserved a greater degree of hearing.

COUNT II
DAVIS MEMORIAL HOSPITAL'S VICARIOUS LIABILITY
(Employer of Kessa Thorpe, PA-C, PA-C)

34. Plaintiffs incorporate by reference all preceding allegations contained above as if fully stated herein.

35. At all times relative to this Complaint, upon information and belief, Kessa Thorpe, PA-C, PA-C was an employee, actual or ostensible agent of Defendant Davis Memorial Hospital.

36. At all times relevant to this Complaint, Kessa Thorpe, PA-C was acting within her scope of employment and/or actual or apparent agency; she treated Plaintiff and otherwise breached the applicable standards of care as described above.

37. Kessa Thorpe, PA-C was acting within the scope of her employment and/or actual or apparent agency relationship with Defendant Davis Memorial Hospital when she deviated from the standard of care and was negligent as mentioned hereinabove.

38. As such, Davis Memorial Hospital is vicariously liable for the negligence committed by Kessa Thorpe, PA-C.

COUNT III
Loss of Consortium

39. Plaintiff Peter Lynch incorporates by reference all preceding allegations contained above as if fully stated herein.

40. Plaintiffs Peter and Wilda Lynch were married on November 7, 1995, and remain married today.

41. As a result of Mrs. Lynch's permanent hearing loss, the Lynchs' ability to communicate with one another has been significantly impaired, requiring them to alter the manner in which they interact on a daily basis.

42. Mrs. Lynch's injuries have caused strain and frustration within the marital relationship and have diminished the companionship, comfort, and enjoyment of activities previously shared by the Lynchs.

43. Additionally, the Lynchs own and operate a family business that requires the use of machinery. Mrs. Lynch's permanent hearing loss has created ongoing concerns regarding her safety while working, resulting in additional stress and anxiety within the marital relationship.

44. As a direct and proximate result of the foregoing, Plaintiff Peter Lynch has suffered a loss of consortium and will continue to sustain such losses in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand compensatory damages and judgment against the Defendant in an amount exceeding the minimum jurisdictional limits of this Court to be determined by the trier of fact. Plaintiffs further demand pre-judgment and post-judgment interest, as well as such other relief as a judge or jury may deem just and appropriate.

PLAINTIFF DEMANDS A TRIAL BY JURY.

WILDA LYNCH and PETER LYNCH
Plaintiffs.

By Counsel:

/s/ James C. Wright
James C. Wright (WV Bar #6816)
R. Dean Hartley (WV Bar # 1619)
HARTLEY LAW GROUP, PLLC
7 Pine Avenue
Wheeling, WV 26003
(304) 233-0777
(304) 233-0774 (fax)
jwright@hartleylawgrp.com
dhartley@hartleylawgrp.com